

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Antoine Marquet Clemons,

Civ. No. 22-1198 (NEB/BRT)

Petitioner,

v.

**REPORT AND  
RECOMMENDATION**

B. Eischen,

Respondent.

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Antoine Marquet Clemons, FPC-Duluth, P.O. Box 1000, Duluth, MN 55814, *pro se*.

Ana H. Voss and Chad A. Blumenfield, U.S. Attorney's Office, 300 S. 4th St., Suite 600, Minneapolis, MN 55415, for Respondent B. Eischen.

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BECKY R. THORSON, United States Magistrate Judge.

On May 4, 2022, the Clerk of this Court sent Petitioner Antoine Marquet Clemons a letter (1) stating that the Court had not received from Clemons either this action's filing fee or an application to proceed *in forma pauperis* ("IFP"); (2) enclosing a copy of this District's template IFP application; and (3) warning Clemons that if the Court "[did] not receive [his] filing fee or [IFP application]" within 15 days—that is, by May 19, 2022—"[his] case could be summarily dismissed without prejudice." (*See* Doc. No. 2.) That deadline has now passed, and Clemons has not paid this action's filing fee or submitted an IFP application. Indeed, since commencing this action, Clemons has not communicated with the Court about this case at all. As a result, the Court now recommends dismissing this action without prejudice under Rule 41(b) for failure to

prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: May 27, 2022

s/ Becky R. Thorson  
BECKY R. THORSON  
United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).